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DE RUEHC #7933/01 1312320
ZNR UUUUU ZZH
O P 112307Z MAY 09
FM SECSTATE WASHDC
TO RUEHMD/AMEMBASSY MADRID IMMEDIATE 1547
INFO RUEHDM/AMEMBASSY DAMASCUS PRIORITY 7033
RUEHLA/AMCONSUL BARCELONA PRIORITY 2661

UNCLAS SECTION 01 OF 02 STATE 047933

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: FAIR ETRD ETTC PGOV PREL SP SY

SUBJECT: DEMARCHE REQUEST: POSSIBLE TEMPORARY DENIAL ORDER
ON ORION AIR

REF: A. A. MADRID 439
1B. B. MONZ-DUDLEY EMAIL 5/4
1C. C. MADRID 413
1D. D. SECSTATE 41098

11. (SBU) This is an action request. Embassy Madrid is requested to provide Orion Air with a copy of the Temporary Denial Order (TDO) and deliver the below talking points before 9am May 12 EST if possible. Embassy Madrid is also requested to share the talking points with appropriate GOS officials and seek their assistance to exercise any available authorities the GOS may have to prevent the second aircraft from being transferred to Syria.

Begin talking points:

- On April 24, 2009, the U.S. Embassy in Spain informed Orion Air that your lease of aircraft to Syrian Pearl Airlines of Syria violated the U.S. Export Administration Regulations (EAR) and that if you proceeded, BIS may impose a Temporary Denial Order (TDO) on Orion Air. Despite initial assurances that you would not proceed, Orion Air subsequently delivered the first aircraft and has confirmed to the U.S. Embassy that you intend to deliver the second aircraft.

- On May 7, 2009, the Bureau of Industry and Security, Department of Commerce (BIS) issued a TDO against Orion and Syrian Pearl Airlines (which will be served a copy separately by BIS). This Order temporarily denies the exporting privileges of Orion Air and Syrian Pearl Airlines for 180 days. Orion Air is requested to return the first aircraft from Syria and halt the delivery of the second aircraft.

- Under terms of the TDO, Orion Air and Syrian Pearl Airlines are prohibited from:

1A. Applying for, obtaining, or using any license, license exception, or export control document;
1B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or
1C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

- Furthermore, any other person is prohibited from:

1A. Export or reexport to or on behalf of Orion Air or Syrian Pearl Airlines any item subject to the EAR;
1B. Take any action that facilitates the acquisition or attempted acquisition by Orion Air or Syrian Pearl Airlines of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United

States, including financing or other support activities related to a transaction whereby Orion Air acquires or attempts to acquire such ownership, possession or control;

¶C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Orion Air or Syrian Pearl Airlines of any item subject to the EAR that has been exported from the United States;

¶D. Obtain from Orion Air or Syrian Pearl Airlines in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

¶E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Orion Air or Syrian Pearl Airlines, or service any item, of whatever origin, that is owned, possessed or controlled by any Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

- Violations of the Export Administration Act of 1979, as amended (EAA), 50 U.S.C. app. 2401-2420 (2000), and the Export Administration Regulations, 15 C.F.R. Parts 730-774 (2007) (EAR) may be subject to both criminal and administrative penalties. Criminal penalties can reach

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\$1,000,000 and 20 years imprisonment per violation and the administrative penalties can reach the greater of \$250,000 per violation or twice the amount of the transaction that is the basis of the violation.

- Violators may also be subject to denial of their export privileges. A denial of export privileges prohibits a person from participating in any way in any transaction subject to the EAR. Furthermore, it is unlawful for other businesses and individuals to participate in any way in an export transaction subject to the EAR with a denied person.

¶2. (SBU) The Department appreciates Post's immediate assistance in this matter. POC is Allison Monz in NEA/ELA and can be reached at 202-647-1131.

CLINTON